

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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DIOGENS MENDEZ,

Plaintiffs,

Justice (Chin, J.)  
08 CV 01281

**REPLY TO COUNTERCLAIM**

-against-

MOHAMED M. DIALLO, LEVEL TRANS CORP.,  
129 BROADWAY, INC., BILL WOLF PETROLEUM  
CORP., and HORIZON PLANNING SERVICES LTD.,

Defendants.  
-----X

The plaintiff by his attorneys, BARON & PAGLIUGH, PLLC, in Reply to the  
Counterclaim of Defendant, LEVEL TRANS CORP.:

1. Denies each and every allegation contained in paragraph of the Counterclaim  
designated as follows: paragraph "24".

AS AND FOR A FIRST SEPARATE AND  
COMPLETE AFFIRMATIVE DEFENSE

2. The counterclaim fails to state a cause of action upon which the relief sought can  
be granted.

AS AND FOR A SECOND SEPARATE AND  
COMPLETE AFFIRMATIVE DEFENSE

3. The defendant, LEVEL TRANS CORP., lacks personal jurisdiction over the  
plaintiffs.

AS AND FOR A THIRD SEPARATE AND  
COMPLETE AFFIRMATIVE DEFENSE

4. The defendant, LEVEL TRANS CORP., failed to mitigate damages.

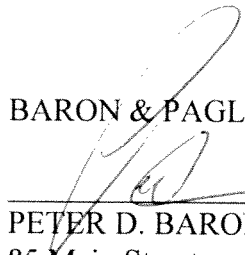
AS AND FOR A FOURTH SEPARATE AND  
COMPLETE AFFIRMATIVE DEFENSE

5. Any damages sustained by the defendant, LEVEL TRANS CORP., were caused  
by the culpable conduct of said defendant.

WHEREFORE, plaintiff demands judgment against defendant LEVEL TRANS CORP.  
dismissing the Counterclaim herein as against the plaintiff, together with costs and disbursements  
of this action.

Dated: Cold Spring Harbor, New York  
April 4, 2008

BARON & PAGLIUGHI, PLLC

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PETER D. BARON, ESQ.  
85 Main Street,  
Cold Spring Harbor, New York 11724  
(631) 367-7000

TO: MARJORIE E. BORNES, ESQ. (MEB6505)  
Attorney for Defendant LEVEL TRANS CORP.  
330 West 34<sup>th</sup> Street, 7<sup>th</sup> Floor  
New York, New York 10001  
(212) 857-8252

**AFFIDAVIT OF MAILING**

STATE OF NEW YORK )  
 ) ss.:  
COUNTY OF SUFFOLK )


PATRICIA BOBROW, being duly sworn, deposes and says:

Deponent is not a party to this action, is over 18 years of age and resides at Floral Park, New York.

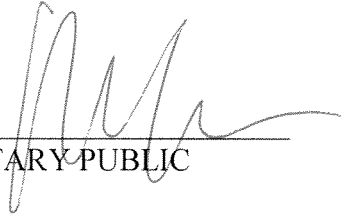
That on the 7 day of April, 2008, deponent served the within **Reply to Counterclaim** upon:

MARJORIE E. BORNES, ESQ. (MEB6505)  
330 West 34<sup>th</sup> Street, 7<sup>th</sup> Floor  
New York, New York 10001

The address designated by said attorney for that purpose by depositing a true copy of same enclosed in a postpaid properly addressed wrapper, in an official depository under the exclusive care and custody of the United States Post Office Department within the State of New York.

  
PATRICIA BOBROW

Sworn to before me this  
7 day of April, 2008.

  
NOTARY PUBLIC

MARIE J. SPERO  
Notary Public State Of New York  
No. 01SP4943655  
Qualified in Nassau County  
Commission Expires Oct. 31, 2010

Index No.

Year

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DIogens MENDEZ,

*Plaintiff(s)*

-against-

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*Defendant(s)*

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**REPLY TO COUNTERCLAIM**

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Baron & Pagliughi  
*Attorneys for Plaintiffs*  
*Office and Post Office Address, Telephone*  
85 Main Street, Suite A  
Cold Spring Harbor, New York 11724  
(631) 367-7000

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To  
Attorney(s) for

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Service of a copy of the within is hereby admitted.

Dated:

Attorney(s) for .....

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Sirs:

**PLEASE TAKE NOTICE**

- ☐ NOTICE OF ENTRY that the within is a (certified) true copy of a \_\_\_\_\_ duly entered in the  
office of the Clerk of the within named court on \_\_\_\_\_
- ☐ NOTICE OF SETTLEMENT that an Order of which the within is a true copy of will be presented for settlement to  
the HON. \_\_\_\_\_, one of the judges of the within named court at  
on \_\_\_\_\_ at \_\_\_\_\_

Dated:

Yours, etc.,

To:

Baron & Pagliughi  
*Attorneys for Plaintiff(s)*  
*Office and Post Office Address, Telephone*  
85 Main Street, Suite A  
Cold Spring Harbor, New York 11724  
(631) 367-7000